The Mussalman Charitable Endowment Bill.

Mr. K. M. Ibrahim:— Mr. President, Sir, I move that the Mussalman Charitable Endowment Bill be considered by the House.

Mr. K. M. Kunhi Moideen:— I second it.

Mr. President:— Does the Law Member wish to speak?

Mr. Thomas Manjuran:— I do not wish to speak anything.

Mr. President:— The question before the House is that clauses 2 to 11 stand part of the Bill.

2. In this Regulation unless there is anything repugnant in the subject or context—

Definitions.

(a) 'Court' means the Court of the District Judge or within the limits of the ordinary original civil jurisdiction of the Chief Court, such Court, sub-ordinate to the Chief Court, as the Government, by notification in the official Gazette, designate in this behalf.

(b) 'Mutwalli' means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf and includes a Naib-mutwalli or other person appointed by mutwalli to perform the duties of the mutwalli and save as otherwise provided in this Regulation any person who is for the time being administering any wakf property.

(c) 'Prescribed' means prescribed by rules made under this Regulation.

(d) 'Wakf' means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable.

Statements of Particulars.

3. (1) Within 3 months from the commencement of this Regulation every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the property of the wakf of which he is the mutwalli is situated or to any one or two or more such Courts, a statement containing the following particulars, namely:—

Obligation to furnish particulars relating to wakf.

(a) A description of the wakf property sufficient for the identification thereof;

(b) the gross annual income from such property;

(c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished or of the period which has elapsed since the creation of the wakf, whichever period is shorter;

(d) the amount of the Government revenue and cesses, and all rents, annually payable in rents, annually payable in respect of the wakf property;

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(e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate;

(f) the amount set apart under the wakf for—

(i) the salary of the mutwalli and allowances to individuals;

(ii) purely religious purposes ;

(iii) charitable purposes ;

(iv) any other purposes ; and

(g) any other particulars which may be prescribed.

(2) Every such statement shall be accompanined by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the mutwalli, of the origin, nature and objects of the wakf.

(3) Where a wakf is created after the commencement of this Regulation, the statement referred to in sub-section (1) shall be furnished within 3 months of the date on which the wakf is created or if it has been created by a written document of the date on which such document is executed.

Publication of particulars and requisition of further particulars.

4. (1) When any statement has been furnished under section 3 the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed and thereafter any person may apply to the Court by a petition in writing, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(2) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

Statement of Account and Audit.

Statement of accounts.

5. Within 3 months after the statement referred to in section 3 has been furnished and thereafter within the corresponding period of every ensuing year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of account, in such form and containing such particulars as may be prescribed, of all moneys received or spent by him on behalf of the wakf of which he is the mutwalli during the period of the said 12 months.

Audit of accounts.

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited by persons holding certificates from the Government.

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General provisions.

Mutwalli entitled to pay cost of audit, etc., from wakf funds.

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purpose of this Act.

Verification.

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, for the signing and verification of pleadings.

Inspection and copies.

9. Any person shall, with the permission of the Court, at any time at which the Court is open, be entitled to inspect in the prescribed manner or to obtain a copy of, (after paying the prescribed fee) any statement of particulars or any document furnished to the Court under section 3, or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6.

Penalty

Penalties.

10. Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall lie upon him fails to furnish such statement or document, as the case may be, in due time or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to ten thousand rupees.

Rules.

Powers to make rules.

11. The Government may, after previous publication, by notification in the official Gazette, make rules to carry into effect the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the additional particulars to be furnished by mutwallis under clause (g) of sub-section 1 of section 3;

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(b) the fees to be charged under section 9 ;

(c) the form in which the statement of accounts referred to in section 5 shall be furnished and the particulars which shall be contained herein ;

(d) the powers and constitution of auditors for the purpose of any audit referred to in section 6 and the particulars to be contained in the reports of such auditors ;

(e) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Regulation ; and

(f) any other matter which is to be or may be prescribed.

Clauses put and carried.

Mr. President:— The question is clause (1) stands part of the Bill.

Preliminary.

Short title, extent and commencement.

1. (1) This Regulation may be called the Mussalman Charitable Endowment Regulation .....of.....11.....;

(2) It extends to the whole of Cochin.

(3) It shall come into force at once.

Clause put and carried.

Mr. President:— The question is the Title and Preamble stand part of the Bill.

THE MUSSALMAN CHARITABLE ENDOWMENT BILL.

Preamble

Whereas it is expedient to make provision for a more efficient management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties, it is hereby enacted as follows:—

Title and preamble put and carried.

Mr. K. M. Ibrahim:— I move that the Bill may be passed the coming afternoon.

Mr. Thomas Manjuran:—That cannot be. It must be on an adjourned day.

Mr. K. M. Ibrahim:—It must be only in a subsequent sitting.

Mr. President:— Subsequent sitting will be a subsequent day and not part of the same day.

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